IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23/09/2002

CORAM

THE HONOURABLE MR.JUSTICE P.K.MISRA

Writ Petition No.8906 of 2000
AND
WMP.Nos.13146 and 13147 of 2000

Dr.V.P. Narayanan
Vice Chancellor
Madras Medical College and
Research Institute
Deemed University
Chennai 3. ..... Petitioner

-Vs-

1. State of Tamil Nadu
rep. by Secretary to Government
Health and Family Welfare
Department, Fort.St.George
Chennai 9.

2. The Dean,
Madras Medical College and Research
Institute, Chennai 600 003. ..... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, as stated therein.

For Petitioner : Mr.G.Masilamani

For Respondent : Mr.R.Thenmozhi sivaperumal AGP

:ORDER
Heard the learned counsel appearing for the parties.
2. the petitioner has prayed for quashing the G.O.No. (D) No.519, Health and Family Welfare Department, dated 30.05.2000 and to give a further direction to the respondents permitting the petitioner to discharge his duties as Vice-chancellor and to direct the first respondent to pay the salary and other perquisites payable to the petitioner.
3. By order dated 27.02.1997, under G.O.Ms. No.77, the petitioner was appointed as Special Officer/ Medical Dean, Madras Medical College and Research Institute. On 30.04.1997, on completion of 60 years, he retired, but he was allowed to continue as Special Officer in the rank of Vice-Chancellor till such time as he would be regularly appointed as Vice-Chancellor with

effect from declaration of MMC & RI as a Deemed University. On 07.07.1997, MMC & RI was registered as Society. On 20.05.1998, in partial modification of G.O.(D).No.467 dated 30.0 4.1997, he was designated as a Director of MMC in the Grade of ViceChancellor, till such time, he shall be regularly appointed as ViceChancellor on declaration of Deemed University. On 07.07.1998, Notification was issued under Section 3 of the University Grant Commission Act, 1956 declaring CMC RI as Deemed University with immediate effect and the petitioner assumed charge as Vice-Chancellor of the University on 21.07.1998. On 30.05.2000, impugned order was passed which directed that the petitioner who was described as Director is to be relieved from the post on the ground that three years have lapsed from the date of initial appointment and on that very day, the petitioner was unilaterally relieved. Such action on the part of the respondent has given rise to the present writ petition. It is to be noticed in the mean time with effect from 31.03.2001, the Deemed University status granted to MMC & RI was withdrawn by the Central Government and UGC.

4. The learned counsel for the petitioner has submitted that the action of the respondent in unilaterally relieving the petitioner on the ground that three years had lapsed and the petitioner should not continue further was illegal and arbitrary. It was further submitted that since the Deemed University status have been withdrawn on 31.3 .2001 the petitioner should be deemed to be continued as ViceChancellor till 31.03.2001 and accordingly the petitioner should be paid all emoluments during the period in which he was actually working as Vice-Chancellor and subsequent to the period 31.05.2000 when he was illegally relieved from the Office till 31.03.2001.

5. A counter has been filed wherein it is indicated that the petitioner was never appointed as Vice-Chancellor and he had been merely appointed as Director or Special Officer and therefore after completion of three years, the petitioner had been asked to hand over charge.

6. It is noticed that before the subsequent events took place and the petitioner was relieved from duty as a Vice-Chancellor, writ of quo-warranto numbered as W.P.No.15820 of 1998 had been filed by another person numbered as against the present petitioner and the State Government. In the aforesaid writ petition, a counter affidavit has been filed on behalf of the State Government. It is necessary to refer to the various averments made in the counter affidavit to bring into focus the unilateral and arbitrary change in the stand of the Government. In the said writ petition it has been stated as " 5)..... It is submitted that in order to attend to the preliminary works connected with the conversion of Chennai Medical College, Chennai as a Deemed University and to have a liason with the Government of India and to draw rules, regulations etc., the Government created the post of S.O./V.C. in the scale of Vice- Chancellor of Tamil Nadu Dr.MGR University in G.O.Ms.No.467 Health dated 30.04.1997 and Dr. V.P.Narayanan has been appointed as Special Officer in the rank of Vice-Chancellor till such time he shall be regularly appointed as Vice-Chancellor with effect from the date of declaration of Chennai Medical College and the Government General Hospital as Deemed University.(Emphasis added).

6) It is further submitted that at the instance of the Government of India, the Government, in letter No.27519/A1/98-1 dated 20.05.1998, redesignated the post of Special Officer as Director. Orders have been issued to the effect that the post of 'Director' shall cease to function with effect from the date of assumption of charge by Dr.V.P. Narayanan as Vice-Chancellor

on declaration of Chennai Medical College and Research Institute as Deemed University. (Emphasis added)
7) It is submitted that in the Notification No.F 9-3/97-U-3 Ministry of Human Resources (Department of Education) dated 07.07.1998, the Government of India have declared the Chennai Medical College and Research Institute as Deemed University with immediate effect. Accordingly the Government in G.O.Ms.No.405. Health, dated 20.07.1998 republished the above Notification of Government of India. Dr.V.P.Narayanan assumed charge as Vice-Chancellor with effect from 07.07.1998 pursuant to the orders issued in G.O.(D)No.467, Health dated 30.04.1997 read with the Government Lr.No.27510/A1/98-1 Health, dated 20.05.1998.(Emphasis added)
13) With regard to Ground (A) of the affidavit, it i submitted that it is not correct to state that the first respondent's assumption of Office of Vice-Chancellor of Chennai Medical College and Research Institute is wholly illegal and unjust and without authority of law and capricious. It is submitted that the first respondent is holding the said post by virtue of the order of the Government dated 20.05.1998 and also by virtue of clause VII of the Memorandum of Association of the Society. (Emphasis added)
15)..... The first respondent is also entitled to hold the post of Vice-Chancellor as per Clause VII of the Memorandum of Association and he assumed charge as a vice-Chancellor with effect from 07.07 .1998. (Emphasis added)"

From the aforesaid extracted portion, it is eminently clear that the petitioner has assume charge as Vice-Chancellor from the date of which deemed university status was conferred on MMC & RI and was continuing till the unilateral action of the respondent. The Memorandum of Association of the Deemed University clearly indicates that all the members of the Board of Management except all Ex-Officio member shall have termed for three years. Clause 13 relating to Vice-Chancellor also indicates that he has to take Office for the term of three years. In the present case, the petitioner became a Vice-Chancellor of the deemed University only from the date of which he assumes charge. The prior period when he functioning as Special Officer or Director could not be counted as part of the term of the Office of the ViceChancellor. As a matter of fact, before the Institute became Deemed University, the question of having Vice-Chancellor did not arise.
7. The stand of the Government that the petitioner never appointed as Vice-Chancellor cannot be accepted in view of the nature of the order passed earlier as well as unequivocal stand of the Government in the further writ petition. The aforesaid stand taken by the Government was accepted by the High Court and the writ of quo warranto stands dismissed. It is the respondent who has unilaterally challenge the stand without any justification. It must be taken that unilateral order of relieving the petitioner from the post of Vice-Chancellor is illegal and ab initio void and it must be taken that the petitioner was entitled to continue as Vice-Chancellor till the Deemed University Status was withdrawn on 30.05.2001.
8. There is no dispute that even prior to 30.05.2000, the petitioner had performed his duties and subsequently the petitioner who had prevented due to illegal and arbitrary action. Keeping this in view, it is directed that the petitioner should be paid all his emoluments from May, 1977. This would be done within a period of four months from the date of communication of this

order.
9. The writ petition is disposed of with the above direction. No costs. Consequently, WMP.Nos.13146 and 13147 of 2000 are closed.

Index: Yes
Internet: Yes
ksr

To

1. State of Tamil Nadu
rep. by Secretary to Government
Health and Family Welfare
Department, Fort.St.George
Chennai 9.

2. The Dean,
Madras Medical College and Research
Institute, Chennai 600 003.